

Appl. No. 10/632,778
Art Unit: 3679
Docket No. 0156-P02889US01

REMARKS

Claims 1-11 and 15-22 are currently pending in this application. Claims 12-14 have been withdrawn from further consideration.

In the April 6, 2005 office action, the Examiner rejected the Specification and Claims 1 and 7 based on informalities. Claims 1, 5, 6, 11, 21 and 22 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,305,670 ("Ward"). Claims 15-17 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,471,192 ("Erwin"). Claim 2 was rejected under 35 U.S.C. § 103(a) as being obvious over Ward in view of U.S. Patent No. 5,335,471 ("Kupiec"). Claims 3 and 4 were rejected under 35 U.S.C. § 103(a) as being obvious over Ward in view of Erwin. Claims 7-10 were rejected under 35 U.S.C. § 103(a) as being obvious over Ward in view of U.S. Patent No. 5,827,029 ("Denman"). Lastly, Claims 18-20 were rejected under 35 U.S.C. § 103(a) as being obvious over Erwin in view of Denman.

The April 6, 2005 office action and the references cited therein have been carefully considered. In view of the foregoing amendments and the following remarks, Applicants respectfully request that the Examiner reconsider the claim rejections and pass this case to issue.

Specification

The Examiner indicates that the Specification fails to provide support for the claim element "cylindrical core". Applicants respectfully refer the Examiner's

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attention to paragraph [0006] in the "Summary of the Invention", which states "The frames are configured to engage the internal surfaces of the shell and slide along a central *cylindrical core* such as a pipe, which may be made of tubular steel or other strong material." In addition, paragraph [0044] of the Description states "Each post 20 has a high strength structural core 36 which may be formed of a variety of structural materials. For instance, the *core* 36 may be formed out of *cylindrical* steel pipe." Therefore, the Specification provides abundant support for the term "cylindrical core".

Notwithstanding the foregoing remarks, Applicants have amended Claims 1, 5, 11 and 21 to remove the adjective "cylindrical" from the "core" element.

Claim Objections

The Examiner objected to the term "shell core" in Claim 1 as lacking antecedent basis. Claim 1 should have recited "the core", not "the shell core". Applicants have amended Claim 1 to replace "shell core" with "core", as was originally intended.

The Examiner objected to the term "hole" in Claim 7 as lacking antecedent basis. Claim 7 was intended to be dependent on Claim 5, not Claim 1. This intent is reflected in Claim 5, which recites the "hole" referred to in Claim 7. Applicants have rewritten Claim 7 to be dependent on Claim 5, as was originally intended.

The foregoing amendments to Claim 1 and Claim 7 are believed to resolve the informalities noted by the Examiner.

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Claim Rejections - 35 U.S.C. § 102

Claims 1, 5, 6, 11, 21 and 22 (Ward)

Applicants have amended Claim 1 to recite a post and railing assembly that includes, among other things, a core, a rectangular shell having a top end, a bottom end and a side face extending between the top end and bottom end, a railing comprising a railing end coupled with the side face of the shell, and a bracket on the side face of the shell, where the bracket forms a socket, the railing end extending into the socket to secure the railing end to the side face of the shell. Amended Claim 1 is supported in sections of the Specification, including but not limited to paragraphs [0007], [0040]-[0043] and [0053]-[0054].

Ward does not disclose a post and railing assembly with a bracket on the side face of a shell, and a railing having a railing end coupled with a side face of a shell, where the railing end extends into the bracket to secure the railing end to the side face of the shell. Instead, Ward describes a baluster (14) connected between an upper rail (10) and a lower rail (12). There is no railing (or other component) connected to the side face of the baluster between the top and bottom ends. In addition, there is no railing end that extends into a bracket. In fact, the railing ends in Fig. 1 are not shown attached to any structure. Therefore, Applicants respectfully submit that amended Claim 1 is allowable over Ward.

Claims 5 and 6 are dependent on amended Claim 1 and incorporate all the elements recited in amended Claim 1. Therefore, Applicants submit that Claims 5

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and 6 are allowable over Ward for at least the same reasons that amended Claim 1 is allowable over Ward. In addition, Claim 5 recites "a cylindrical hole that extends through the bracket, said hole being adapted to receive a bracket fastener that extends through the hole and the shell and into said frame." Based on the Examiner's interpretation of Fig. 2, Ward does not disclose a fastener that extends through a hole in bracket (18) and the shell (14) and the frame (30). Therefore, Claim 5 recites additional subject matter that is not taught by Ward.

Claim 11 has been amended to recite a post and railing assembly comprising, among other things, a rectangular frame, a rectangular shell having an inner surface and an outer surface, the shell having a top end, a bottom end and a side face extending between the top end and bottom end, and a railing comprising a railing end, the railing end engaging the side face of the rectangular shell, where the frame provides vertical support for the railing end. Amended Claim 11 is supported in sections of the Specification, including but not limited to paragraphs [0007], [0040]-[0043] and [0053]-[0054].

As noted above, Ward does not disclose a railing end engaging the side face of a shell. Instead, Ward describes a baluster (14) supported between upper and lower rails (10, 12), with no elements coupled with the side face of the shell. Therefore, Applicants submit that amended Claim 11 is allowable over Ward.

Claim 21 has been amended to recite a post and railing assembly comprising, among other things, a rectangular shell and a railing comprising a railing end, said

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railing end coupled with the outer surface of the rectangular shell, and a bracket on the outer surface of the shell, where the bracket forms a socket, and where the railing end extends into the socket to secure the railing to the shell. As noted above, Ward does not disclose a railing end coupled with the outer surface of a rectangular shell, and a bracket on the outer surface of the shell, where the bracket forms a socket, and where the railing end extends into the socket to secure the railing to the shell. Therefore, Applicants submit that amended Claim 21 is allowable over Ward.

Claim 22 is dependent on amended Claim 21 and incorporates all the elements recited in amended Claim 21. Therefore, Claim 22 is allowable over Ward for at least the same reasons that amended Claim 21 is allowable.

Claims 15-17 (Erwin)

Claim 15, as originally filed, recites a plurality of resilient flexible spring sheets. Erwin does not disclose a plurality of resilient flexible spring sheets. The Examiner considers the spacers (50, 52, 54, 56, 58 and 59) to be resilient flexible spring sheets, but provides no explanation or evidence to support this interpretation. According to Erwin, the spacers form a gap between the rail and the back panel (30), which prevents the rail from resting flush against the back panel. (Col. 3, lines 39-42). There is no mention of resiliency or flexibility, or any other description of the spacers and their properties. Resiliency and flexibility are properties that are dependent on factors like the size and thickness of the spacers, which are not discussed in the specification. If anything, the description suggests that the spacers

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are rigid stops. Therefore, Erwin fails to disclose each and every element of Claim 15.

To further clarify the nature of the claimed spring sheets, Applicants have amended Claim 15 to recite a bracket comprising, among other things, a socket end adapted to receive the end of the railing member and a mounting end for connection to the supporting structure, said bracket having a plurality of resilient flexible spring sheets, each spring sheet having a fixed end connected substantially adjacent to the socket end and a cantilevered portion extending from the fixed end toward the mounting end of the bracket. Amended Claim 15 is supported in sections of the Specification and drawings, including but not limited to paragraph [0054] and Figs. 5-8 and 28.

The spacers (50, 52, 54, 56, 58 and 59) in Erwin are not resiliently flexible, and do not have fixed ends connected substantially adjacent to the socket end of the bracket. In addition, the spacers in Erwin do not have cantilevered ends extending toward the mounting end of the bracket. The spacers are fixed to the bracket adjacent the back panel (30), which is not substantially adjacent to the socket end. Therefore, Applicants submit that amended Claim 15 is allowable over Erwin.

Claims 16 and 17 are dependent on amended Claim 15 and incorporate all the elements recited in amended Claim 15. Therefore, Claims 16 and 17 are allowable over Erwin for at least the same reasons that amended Claim 15 is

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allowable. In addition, Claim 16 recites a rear face forming a notch that conforms to a corner of the supporting structure. Claim 17 recites a curved rear face adapted to conform to a curved surface on the supporting structure. The Examiner has not explained how Erwin discloses a notch or curved rear face. The reference to the area "between 74 and 76" is vague and does not direct the Applicants to any feature in the drawings. Therefore, Examiner has not shown how Erwin discloses each and every element recited in Claims 16 and 17. Applicants respectfully request the Examiner to provide clarification of these rejections in the event that they are maintained, and provide the Applicants with an additional opportunity to respond.

Claim Rejections - 35 U.S.C. § 103

Claim 2 (Ward and Kupiec)

Claim 2 is dependent on amended Claim 1, and incorporates all the elements recited in amended Claim 1, including a railing end coupled with the side face of the outer surface of a shell, and a bracket on the side face of the shell, the bracket forming a socket, the railing end extending into the socket to secure said railing end to the side face of the shell. As noted above, Ward does not disclose a post and railing assembly with a bracket on the side face of a shell, and a railing end coupled with a side face of the shell, where the railing end extends into the bracket to secure the railing end to the side face of the shell. Kupiec also fails to disclose a post and railing assembly with a bracket on the side face of a shell, and a railing end coupled with a side face of the shell, where the railing end extends into the bracket to secure

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the railing end to the side face of the shell. Instead, Kupiec describes a column enclosure kit. The column enclosure kit does not include brackets or railings. Therefore, the deficiency in Ward is not overcome by combining Ward with the disclosure in Kupiec. As a result, Claim 2 is not rendered obvious by the combination of Ward and Kupiec.

Claims 3 and 4 (Ward and Erwin)

Claims 3 and 4 are dependent on amended Claim 1, and incorporate all the elements recited in amended Claim 1, including a railing end coupled with the side face of the outer surface of a shell, and a bracket on the side face of the outer surface of the shell, the bracket forming a socket, the railing end extending into the socket to secure said railing end to the side face of the shell. As noted above, Ward does not disclose a post and railing assembly with a bracket on the side face of a shell, and a railing end coupled with a side face of the shell, where the railing end extends into the bracket to secure the railing end to the side face of the shell. Erwin also fails to disclose a post and railing assembly with a bracket on the side face of a shell, and a railing end coupled with a side face of the shell, where the railing end extends into the bracket to secure the railing end to the side face of the shell. Instead, Erwin describes a molded bracket, with no description of a shell or railing end secured to a shell. Therefore, the deficiency in Ward is not overcome by combining Ward with the disclosure in Erwin. As a result, Claims 3 and 4 are not rendered obvious by the combination of Ward and Erwin.

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Claim 4 further recites a plurality of resilient flexible spring sheets in the socket, said spring sheets being biased inwardly and configured to impart inward pressure on the railing end when the railing is inserted in the socket. Erwin does not disclose a plurality of resilient flexible spring sheets, as discussed earlier. The Examiner considers the spacers 50, 52, 54, 56, 58 and 59 to be resilient flexible spring sheets, but provides no explanation or evidence to support this interpretation. Therefore, Applicants respectfully submit that Claim 4 is not rendered obvious by the combination of Ward and Erwin.

Claims 7-10 (Ward and Denman)

Claims 7-10 are dependent on amended Claim 1 and incorporate all the elements recited in amended Claim 1, including a railing end coupled with the side face of the outer surface of a shell, and a bracket on the side face of the outer surface of the shell, the bracket forming a socket, the railing end extending into the socket to secure said railing end to the side face of the shell. As noted above, Ward does not disclose a post and railing assembly with a bracket on the side face of a shell, and a railing end coupled with a side face of the shell, where the railing end extends into the bracket to secure the railing end to the side face of the shell. Denman also fails to disclose the post and railing assembly with a bracket as described in Claim 1. Instead, Denman describes a two-piece fastener cap, with no description of a railing and bracket. Therefore, the deficiency in Ward is not overcome by combining Ward with the disclosure in Denman. As a result, Claims 7-

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10 are not rendered obvious by the combination of Ward and Denman.

Claims 7 and 8 also recite a cover for insertion into a hole in a bracket, where the cover has an exterior face that conforms to the exterior contour of the bracket. This arrangement has several advantages, including the ability to conceal a fastener without visibly disrupting the exterior of the bracket. The two-piece cover in Denman (18,20) is not inserted into a hole of any kind; rather, it is mounted onto the exterior of an object (16) that does not have a hole, such that the cover projects outwardly from the object. The exterior face of the two-piece cover in Denman cannot be said to conform to the contour of object (16). The surface (16) is completely flat, while the two-piece cover (18, 20) forms a trapezoid-shaped mound that protrudes conspicuously from the surface (16). Therefore, one would not be motivated to incorporate the cap in Denman into the fastener hole in Ward, since the cap in Denman is not designed to be placed in fastener holes.

Claim 9 further recites a tongue projection in the hole, and a longitudinal slot in the cover that mates with the tongue projection to limit rotation of the cover relative to the hole. The cover (18, 20) in Denman does not have any tongue projections, or other elements that limit rotation of the cover. In fact, the cover (20) in Denman is purposely designed to rotate freely relative to the fastener as an added security feature that prevents unscrewing of the fastener. (Col. 4, lines 45-50). For these reasons, Denman contains no motivation or suggestion for providing the cap and bracket arrangement recited in Applicant's claims 7-10.

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Claims 18-20 (Erwin and Denman)

Claim 18 has been amended to recite a bracket comprising, among other things, a hole for receiving a bracket fastener and a generally cylindrical cover having a side wall and an end wall, said side wall a sidewall length and a longitudinal slot extending through the side wall, said side wall extending into the hole with the length of said side wall completely inserted within the hole and said end wall positioned flush with the exterior contour of the bracket with no portion of the cover projecting out of the hole.

Erwin does not disclose a bracket with a cover having a length that extends into the hole and an end wall, where the cover extends into the hole with the length of the side wall completely inserted within the hole and the end wall positioned flush with the exterior contour of the bracket with no portion of the cover projecting out of the hole. Denman also fails to disclose a bracket or cover as described in amended Claim 18. As noted earlier, the two-piece cover in Denman (18,20) is not inserted into a hole of any kind; rather, it is mounted onto the exterior of an object (16) and projects outwardly from the object. Assuming for the moment that piece (20) can be identified separately as a "cover" inserted into a hole, piece (20) is not positioned flush with the exterior contour of piece (18), and projects out of the hole. (See Fig. 2).

Claims 19 and 20 are dependent on amended Claim 18 and incorporate all the elements recited in amended Claim 18. Therefore, Claims 19 and 20 are

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allowable over the cited references for at least the same reasons that amended Claim 18 is allowable. Moreover, Claim 19 recites a curved exterior contour on the bracket and curved exterior face on the cover that conforms to the contour of the bracket. In contrast, the exterior of the cover (20) in Denman is not curved in any respect and does not conform to the exterior of the object (16). Claim 20 recites a tongue projection and a longitudinal slot that mate with one another to limit rotation of the cover in the hole. The cover (18,20) in Denman, however, is designed to rotate in the hole. Therefore, Claims 19 and 20 recited additional subject matter that are not suggested in the cited references.

New Claims

Applicants have added new Claims 23 and 24. Claim 23 recites a post and railing assembly as recited in Claim 1, having a plurality of resilient flexible spring sheets in the socket of the bracket, wherein the railing extends through the spring sheets and displaces the spring sheets outwardly relative to the longitudinal axis of the socket, the spring sheets being biased inwardly toward the longitudinal axis of the socket and imparting inward pressure on the railing. New Claim 24 recites a bracket as recited in Claim 15, wherein the spring sheets are spaced apart in the socket to permit insertion of the railing member between the spring sheets. Support for new Claims 23 and 24 is contained in sections of the Specification, including paragraph [0054] and Figs. 2 and 3.

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Conclusion

In light of the foregoing remarks, Applicants believe that the Examiner's claim rejections should be reconsidered. In addition, Applicant respectfully requests that the Examiner consider new Claims 23 and 24 and pass this case to issue. The Examiner is encouraged to contact the Applicants' undersigned attorney if the Examiner believes that issues remain regarding the allowability of this application.

Respectfully submitted,

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